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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/848,868

05/18/2004

Dennis O. Betway

SLING

6189

7590

09/20/2005

ROBERT J. HARTER  
4233 CLIFFSIDE DRIVE  
LA CROSSE, WI 54601

EXAMINER

LOWE, MICHAEL S

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/848,868	<b>Applicant(s)</b> BETWAY, DENNIS O.	
	<b>Examiner</b> M. Scott Lowe	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is FINAL.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 6-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/18/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*Handwritten signature*

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-13, 15-18, 20 are rejected under 35 U.S.C. 103(a) as being obvious over Johannis (US 2,927,329) in view of Wiedemann (US 954,840).

Re claims 6, 17, Johannis teaches a method to carry a load, wherein the method involves the use of a sling L that comprises two pliable elongate members 15, 16 joined by a series of handles 17 that are interposed therebetween, wherein the series of handles include a first plurality of handles 17 and a second plurality of handles 17, and the series of handles are stiffer than the two pliable, elongate members 15, 16. Johannis does not teach using two people to carry the load. Wiedemann teaches a first person and a second person extending the sling underneath the load such that the load is interposed between the first plurality of handles and the second plurality of handles; selecting a first handle from the first plurality of handles; gripping the first handle via the first person; selecting a second handle from the second plurality of handles; gripping the second handle via the second person such that the load is interposed between the first person and the second person and manually lifting the load via the first person and the second person lifting the first handle and the second handle receptively, whereby the load is held cradled upon the sling between the first person and the second person. It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Johannis by the general teaching of Wiedemann to have a first person and a second person extending the sling underneath the load such that the load is interposed between the first plurality of handles and the second plurality of handles; selecting a first handle from the first plurality of handles; gripping the first handle via the first person; selecting a second handle from the second plurality of handles; gripping the second handle via the second person such that the load is interposed between the first person and the second person and manually lifting the load via the first person and the second person lifting the first handle and the second handle receptively, whereby the load is held cradled upon the sling between the first person and the second person in order to transfer a load that is too heavy or large for a single person.

Re claims 7,8, Johannis as already modified teaches the first and second person on opposite sides of the load. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the first and second person face forward or whatever way is more comfortable for them.

Re claim 9, Johannis as already modified teaches the first and second person on opposite sides of the load using only a first arm with the other arm free.

Re claims 10,11, it would have been inherently obvious to one of ordinary skill in the art at the time the invention was made to use the free hand for any needed purpose to help the first and second persons accomplish their task.

Re claim 12, Johannis teaches the two pliable elongate members comprise two fabric (textile) straps 15,16.

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Re claims 13,18, Johannis teaches each handle 17 of the series of handles lies substantially perpendicular to the two pliable elongate members 15,16.

Re claim 15, Johannis as already modified inherently teaches positioning at least one handle of the series of handles underneath the load.

Re claim 16, Johannis as already modified inherently teaches tipping the load so that the sling can be positioned underneath the load or any other known type of positioning of the load and sling in order to place the load on the sling.

Re claim 20, Johannis teaches the series of handles 17 maintains the two fabric straps 15,16 in a spaced apart relationship.

Claims 14,19 is rejected under 35 U.S.C. 103(a) as being obvious over Johannis (US 2,927,329) in view of McLeod (US 3,033,310) and Wiedemann (US 954,840).

Re claims 14,19, Johannis teaches each handle 17 of the plurality of at least five handles defines slits 20 through which the two pliable elongate members 15,16 extend. Johannis teaches (column 3, lines 9-10) that the handles 17 may be fixed to the two pliable elongate members 15,16 in a number of ways. McLeod teaches use of two slits with removable end caps and fasteners so that the handles can be readily attached or adjusted (column 1, line 15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Johannis by McLeod to have two slits with removable end caps and fasteners so that the handles can be readily attached or adjusted.

### ***Conclusion***

Applicant's arguments filed 6/27/05 have been fully considered but they are not persuasive.

Applicant argued that neither Johannis nor Wiedemann teach a first person selecting among a first plurality of handles and a second person selecting among a second plurality of handles. However, Wiedemann (figure 8) clearly teaches this.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that Johannis does not teach the invention. However, Johannis teaches a lifting device with the majority of the claimed structural characteristics. Wiedemann teaches the two person lifting. The combination is the device of Johannis lifted as taught by Wiedemann (figure 8). The body portion of Wiedemann is not used to replace the handles of Johannis or vice versa.

Applicant argued that McLeod teaches holes rather than slits. However, Merriam-Webster's Collegiate Dictionary 10th Edition defines both holes and slits as openings. McLeod thus teaches the slit limitation.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., how the handles are assembled) are not recited in the rejected claim(s). Although

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the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl

  
DEAN J. KRAMER  
PRIMARY EXAMINER